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SIPDIS

STATE FOR INL, EAP/MLS, EB/ESC/TFS
JUSTICE FOR OIA AND AFMLS
TREASURY FOR FINCEN

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SUBJECT: BURMA: 2005 INCSR PART II

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1. Following is the 2005-2006 revision of the International Narcotics Strategy Report, Part II: Financial Crimes and Money Laundering for Burma.

2. Burma, a major drug producing and trafficking country, has a mixed economy with substantial state-controlled companies, mainly in energy and heavy industry, and with private business primarily in agriculture and light industry. Burma's economy continues to be vulnerable to drug money laundering due to its under-regulated financial system, inadequate implementation of its anti-money laundering regime, and policies that facilitate the funneling of drug money into commercial enterprises and infrastructure investment. The government has addressed key areas of concern identified by the international community by implementing some anti-money laundering measures, but Burma remains on the Financial Action Task Force (FATF) list of Non-Cooperative Countries and Territories (NCCT).

3. Burma enacted a "Control of Money Laundering Law" in 2002. It also established the Central Control Board of Money Laundering in 2002 and a Financial Intelligence Unit (FIU) in 2003. It set a threshold amount for reporting cash transactions by banks and real estate firms, albeit at a high level of 100 million kyat (approximately \$100,000). Since adopting a "Mutual Assistance in Criminal Matters Law" in 2004, Burma has taken additional steps to address money laundering and to combat terrorist financing, including adding fraud to the list of predicate offenses and defining penalties for "tipping off" suspicious transaction reports. As a result, FATF lifted its countermeasures in October 2004. The GOB's recent anti-money laundering measures amended regulations originally instituted in 2003, which had set out 11 predicate offenses, including narcotics activities, human and arms trafficking, cyber crime, and "offenses committed by acts of terrorism," among others. The 2003 regulations also called for suspicious transaction reports (STRs) by banks, the real estate sector, and customs officials, and imposed severe penalties for non-compliance.

4. The GOB established a Department Against Transnational Crime in 2004 with a mandate that included anti-money laundering activities. It is staffed by police officers and support personnel from banks, customs, budget, and other relevant government departments. In response to a February 2005 FATF request, the Government of Burma submitted an anti-money laundering implementation plan and progress reports. In 2005, the government also increased the size of the FIU from 10 to 40 members. In August 2005, the Central Bank of Myanmar issued guidelines for on-sight bank inspections and required reports reviewing banks' compliance with AML legislation. Since then, the Central Bank has disbursed teams to instruct on the new guidelines and to inspect banking operations for compliance.

5. Despite the lifting of countermeasures, Burma remains on the FATF's list of non-cooperative countries and territories because it has not yet implemented all the required reforms in its anti-money laundering regime. As of December 2005, the United States maintains the countermeasures it adopted against Burma in 2004. At that time, the United States issued final rules finding the jurisdiction of Burma and two private Burmese banks, Myanmar Mayflower Bank and Asia Wealth Bank, to be "of primary money laundering concern," and requiring U.S. banks to take certain special measures with respect to all Burmese banks, but with respect to Myanmar Mayflower and Asia Wealth Bank in particular. These rules were issued by FinCEN of the Treasury Department pursuant to Section 311 of the 2001 USA PATRIOT Act.

6. The rules prohibit most U.S. financial institutions from establishing or maintaining correspondent or payable-through accounts in the United States for, or on behalf of, Myanmar Mayflower and Asia Wealth Bank and, with narrow exceptions, for all other Burmese banks. Myanmar Mayflower and Asia Wealth Bank have been directly linked to narcotics-trafficking organizations in Southeast Asia. In March 2005, following a GOB investigation, the Central Bank of Myanmar revoked Myanmar Mayflower Bank's and Asia Wealth Bank's licenses to operate, citing infractions of the Financial

Institutions of Myanmar Law. As of December 2005, Government of Burma investigations into these two cases continue. In August 2005, the Government of Burma seized the assets of another private institution, the Myanmar Universal Bank (MUB), and arrested the Bank's Chairman under the Narcotics and Psychotropic Substances Law, charging him with drug-related money laundering crimes. As of December 2005, the case was still in court.

17. Burma remains under a separate U.S. Treasury Department advisory stating that U.S. financial institutions should give enhanced scrutiny to all financial transactions relating to Burma. The Section 311 rules complement the 2003 Burmese Freedom and Democracy Act (renewed in July 2005) and an accompanying executive order. These laws imposed additional economic sanctions on Burma following the regime's May 2003 attack on pro-democracy leader Aung San Suu Kyi and her convoy. The sanctions prohibit the import of Burmese-produced goods into the United States, ban the provision of financial services to Burma by U.S. persons, freeze the assets of identified Burmese institutions, including those of the ruling junta, and expand visa restrictions to include managers of state-owned enterprises, in addition to senior government officials and family members associated with the regime. In August 2005, U.S. Treasury amended and reissued the Burmese Sanctions Regulations in their entirety to implement the 2003 Executive Order which placed new sanctions on Burma.

18. Burma holds observer status in the Asia/Pacific Group on Money Laundering and is a party to the 1988 UN Drug Convention. Over the past several years, the Government of Burma (GOB) has extended its counter-narcotics cooperation with other states. The GOB has bilateral drug control agreements with India, Bangladesh, Vietnam, Russia, Laos, the Philippines, China, and Thailand that address cooperation on drug-related money laundering issues. In July 2005, the Myanmar Central Control Board signed an MOU with Thailand's Anti-Money Laundering Office governing the exchange of information and financial intelligence. In 2005, Australia funded workshops in Burma on monitoring and investigating money laundering.

19. Burma has signed, but not yet ratified, the UN International Convention for the Suppression of the Financing of Terrorism. In 2004, Burma ratified the UN Convention against Transnational Organized Crime. Burma plans to sign the ASEAN Multilateral Assistance in Criminal Matters Agreement in early 2006.

10. The GOB now has in place a framework to allow mutual legal assistance and cooperation with overseas jurisdictions in the investigation and prosecution of serious crimes. Burma must improve enforcement of regulation and oversight of its banking system, and end all policies that facilitate the investment of drug money into the legitimate economy. It also must discourage the widespread use of informal remittance or "hundi" networks. Burma should continue to work toward full implementation of a viable anti-money laundering regime, and should provide the necessary resources to administrative and judicial authorities that supervise the financial sector so they can successfully implement and enforce the government's latest regulations to fight money laundering. Burma should also become a party to the UN International Convention for the Suppression of the Financing of Terrorism and criminalize the funding of terrorism.

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